

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1302 - SB 1751

March 30, 2009

SUMMARY OF BILL: Creates a new Class E felony offense of unlawful restraint if a person for pecuniary benefit transports another in a manner that is designed to conceal the person from local, state, or federal law enforcement and that creates a substantial likelihood that the person will suffer serious bodily injury or death or if a person restricts another's movements without consent by confining the person by force, intimidation or deception. A violation that results in the restrained person's death is a Class D felony and the offender may be civilly liable to the person unlawfully restrained. Creates a new Class E felony offense for a person knowingly to cause another person by force, threat, or fraud to commit prostitution. Creates a new Class D felony offense for a person to cause a child younger than 18 years of age, by force, threat, or fraud, to commit prostitution regardless of whether the offender knew the age of the child. Creates a new Class E felony for a person to have another person through force, threats, or fraud to undress, have pornographic photographs taken, or to perform sexual acts on film.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$212,700/Incarceration*

Assumptions:

- According to the Department of Correction (DOC), there has been an average of 23 admissions for kidnapping and six admissions for promoting prostitution for each of the past 10 years. DOC estimates that 10 percent (2) of the 23 admissions for kidnapping involved unlawful restraint.
- According to the Department of Correction, the average operating cost per offender per day for calendar year 2009 is \$59.80. The average post-conviction time served for a Class E felony is 1.63 years and 2.43 years for a Class D felony. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days).
- Two offenders would receive a Class E felony for unlawful restraint as a result of this bill. The total additional operating cost for two offenders is \$71,096.22 (\$35,548.11 x 2). DOC estimates that one additional

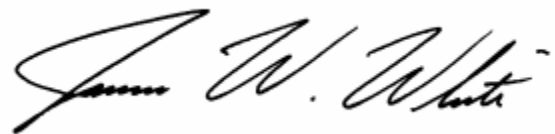
offender every three years would receive a Class D felony as a result of unlawful restraint resulting in death. The annualized time served per conviction is 292.45 days (0.33×886.22 days). The annualized cost per conviction is \$17,488.51 ($\59.80×292.45 days).

- DOC estimates 10 percent (0.6) of the six admissions for promoting prostitution were compelled and would receive a Class E and one offender would receive a Class D with a victim under the age of 18. One additional offender would receive a Class E felony for compelling pornography. The total additional cost for two Class E offenders is \$71,096.22 ($\$35,548.11 \times 2$) and for one additional Class D offender the cost is \$52,995.96.
- The total additional incarceration cost is \$212,676.91 ($\$71,096.22 + \$17,488.51 + \$71,096.22 + \$52,995.96$).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- Since this bill creates new offenses, no recidivism discount has been included.
- Any impact on state trial caseloads can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc